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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,341	03/27/2002	Bernhard Rieger	CM2210MQL	1289

27752 7590 10/22/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,341

Applicant(s)

RIEGER ET AL.

Examiner

Rob Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

1. Prior rejections under 35 USC 112(2), as well as rejections under 35 USC 102 over Sawyer et al. are withdrawn in view of amendment.
2. A new limitation requiring "similar stereochemical configuration" has been added to all claims. In addition to the requirement that all polymer components must have similar configuration, this limitation is deemed to limit the scope of polymers to those which can be described in terms of stereochemical configuration at all. Accordingly, homopolymers of ethylene (and all other polymers or copolymers which do not possess any clearly defined stereochemistry analogous to "tacticity") are excluded from the scope of polymers which comprise the fibers, both as sole components or blend components. This meaning is consistent with applicants' specification, wherein the only monomers disclosed are C₃-C₂₀ olefins (paragraph bridging pages 3-4).

Claim Rejections - 35 USC § 102

3. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Peacock (US 5,272,003).

The reference discloses syndiotactic polypropylene fibers made by melt spinning (Example 1, col. 7, lines 36-49; Figure 1). Syndiotactic PP with 93% racemic placements would necessarily have a meso pentad fraction of less than 60%, and would also be within the meaning of "having one phase of molecules all of which exhibit a

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similar stereochemical configuration". The example goes on to state that the fibers are suitable for spun bonding or melt blowing into fabrics, such fabrics suitable as components of disposable diapers (col. 8, lines 7-11). Further still, the reference has described using the disclosed fibers in a diaper or incontinence product comprising a layer of a carded bonded fabric of the disclosed polymer (col. 7, lines 7-16).

Accordingly, the reference has described all claimed limitations.

Claim Rejections - 35 USC § 103

4. Claims 1-³~~5~~ and 7-11 rejected under 35 U.S.C. 103(a) as being unpatentable over Waymouth et al. (US 5,594,080) in view of each independently of Sawyer et al. (US 5,672,415) and Peacock (US 5,272,003).

Waymouth describes propylene polymers comprising alternating stereoblock sequences comprising a meso pentad fraction of less than 60%, and which are within the meaning of "having one phase of molecules all of which exhibit a similar stereochemical configuration" (Examples 13-23). Patentee is primarily concerned with the synthesis and properties of the polymer, but has suggested that the polymer would be useful as a fiber with good elastic properties (col. 9, lines 56-59). It is well established that polyolefin fibers are conventionally used in woven and non-woven fabrics (see Peacock col. 1, lines 15-20), and therefore the use of the suggested fibers of Waymouth in webs would be obvious to the ordinary skilled worker in this art. Applicants' scope of process limitations regarding fiber spinning, web formation and web stabilization encompasses virtually the whole of what is conventional for such

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processes; however, should further guidance be necessary, said ordinary skilled worker would reasonably consult specific disclosures of conventional methods of forming fibers and bonded webs thereof. Each of Sawyer and Peacock has disclosed conventional methods of forming polypropylene fibers and bonded webs (Peacock Figure 1; Example 1, col. 7, lines 36 through col. 8, line 8); (Sawyer Figure 1; Example 1, col. 8, lines 9-56). One of ordinary skill in the art would be motivated to make fibers and bonded webs using the polymer of Waymouth using conventional methods such as disclosed in either Peacock or Sawyer because: (a) fibers are a recommended use of the polymer of Waymouth, and (b) webs are among the most conventional uses of polyolefin fibers, with reasonable success expected.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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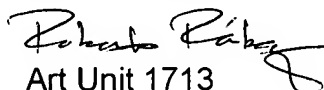
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rábago whose telephone number is (703) 308-4347. The examiner can normally be reached on Monday - Friday from 7:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

ROBERTO RABAGO
PATENT EXAMINER


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RR
October 7, 2003